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Director

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**Board Meeting – April 22, 2013**

**21<sup>st</sup> Floor – Conference Room 1**

**Present Board Members:**

- Walter White, Executive Office of Public Safety Designee, Chair (WW)
- Diane McLeod, Vice Chair (DM)
- Myra Berloff, Massachusetts Office on Disability (MB)
- and
- Thomas Hopkins, Executive Director (TH)
- Kate Sutton, Program Coordinator/Clerk for Proceedings (KS)

**Members Not Present:**

- Raymond Glazier, Executive Office on Elder Affairs Designee (RG)
- Carol Steinberg, Member (CS)
- Andrew Bedar, Member (AB)
- Mark Trivett, Member (MT)
- Gerald LeBlanc, Member (GL)

- Meeting began at 9:20 a.m.

1) **Incoming:** Kensington, 665 Washington St., Boston (V13-093)

TH - EXHIBIT – variance application

- new construction, 3.2
- 27 story residential apartment
- first five floors is parking

- 6<sup>th</sup> floor, roof deck, community space
- variance for 42.7.1c, group 1 (243 group 1 bathrooms), need blocking for 6" above rim of the tub to 48 inches above the floor, 36" required by FHA
- proposing wing-it type device
- rated up to 600lbs
- Commission does not support the variance application, since the reasons do not meet requirements of "impracticability"
- after realized, all other units were changed to the 48"
- excessive cost argument to correct already built units

*MB - grant the use of the proposed wing-it, based on excessive cost without substantial benefit, and equivalent facilitation*

*DM - second –*

*WW - can we get something from an engineer that it will accommodate the strength necessary, need to know that the entire assembly will hold the strength*

*MB - on the condition that the assembly will meet or exceed the required structural strength*  
*- carries*

## 2) Incoming: Parkhurst School, 40 Samoset Rd., Winchester (C13-004 & V13-084)

TH - EXHIBIT – variance application

- complaint was filed
- investigated the fact that no vertical access provided during renovation which triggered full compliance
- they knew they needed variance relief, there was intent, but they never applied
- 3/28/13 letter from Superintendent, states that they knew that variance was required, but forgot, until they were cited
- since applied for variance, now seeking until June of 2013, to use the building as is, it will be converted to administrative use after this year, no access to the second floor proposed
- seeking until June to use the building as a school, at the end of June, it will be administration building only
- it will be accessible at the first floor
- employees only at the second floor

DM - administration building is used by the public

TH - statement made that the second floor is only open to the public

- can write a very strong order, that if they want to use any portion of the second floor for the public, then they need to come back to the Board

DM - need to know the second floor use

MB - need affidavit from superintendent

DM - should be for this use only  
 - want to know the use of the second floor, and all of the second floor offices

DM - want a list of all the offices

TH - then why not schedule a hearing

*MB - deny and schedule a hearing*

*DM - second – carries*

3) Incoming: Provincetown Gym, 81 Shankpainter Rd., Provincetown (V13-085)

TH - EXHIBIT – variance application

- three-story building, multi-tenant
- taking storage area to create two additional massage therapy areas
- will be duplication of space at the first floor
- elevator to access the first and second floor

*MB - grant as proposed for this use only*

*DM - second carries*

- **Gerald LeBlanc, Member (GL) – Now Present -**

4) Incoming: Medical building, 336 Union Ave., Framingham (V13-080)

TH - EXHIBIT – variance application

- added solar entry at the rear, not proper access
- not complete variance application, nothing specific requested
- Building inspector cited them on August 30, 2011
- over 30% by \$12,000.00

*MB - deny*

*DM - second - carries*

5) Incoming: Samuel Harrison House, 80-82 3<sup>rd</sup> St., Pittsfield (V13-095)

TH - EXHIBIT – letter from owner

- renovations are complete
- over 30%
- seeking variances to 30, 28, 29,
- needs a hearing

*DM - hearing*

*MB - second - carries*

6) Incoming Discussion: Mixed Use and Health Club, 200 Boylston St., Chestnut Hill (V13-072)

- TH - EXHIBIT – submittal of pool lift proposal
- previously granted use of the LULA on the condition that access provided into the pool
  - don't think that it meets ADA or AAB, since the proposed lift is portable

*MB - deny the use of the proposed lift, since it does meet the regulations*

*GL - second*

*KS - ADA says it has to be permanently installed*

*MB - AAB just says lifting device*  
*- doesn't say permanently or temporary or capable of*  
*- does not meet the intent of the regulations*

*WW - stamp says "ADA Compliant"*  
*- carries*

7) Incoming Discussion: Press Box, 99 Auburn St., Auburn (V13-079)

- TH - EXHIBIT- follow-up letter

*MB - accept letter*

*DM - second – carries*

8) Incoming: Whip Manufacturing Company, 360 Elm St., Westfield (V13-086)

- TH - EXHIBIT – variance application
- reconstruction into working museum space
  - spending over 30%
  - large variance request

*MB - hearing*

*DM - second – carries*

9) Incoming: Sidewalk Cross Slopes, St. James St. (South Side), Boston (V13-094)

- TH - EXHIBIT – variance application
- project is done
  - improved cross slopes
  - but still areas of noncompliance
  - vaults under entire sidewalk

*MB - grant as proposed, tech. infeasibility*

*DM - second – carries*

10) Incoming: Chestnut Park Apartments, Chestnut & Hampden St., Holyoke (V13-082)

- TH - EXHIBIT – variance application

- four building variance

*DM* - hearing

*MB* - second - carries

11) Incoming: Parish of All Saints, 209 Ashmont St., Dorchester (V13-081)

- TH - EXHIBIT – variance application
- spending over 30%
  - renovation of church and parish hall
  - 11 variance requests

*MB* - hearing

*GL* - second – carries

12) Discussion: 11 North Restaurant, 11 North Water St., Edgartown (V12-206)

- TH - received call from one of the restaurant owners, lift not yet installed
- was supposed to be installed by April
  - tried to contact owner, but have not heard back from him

*MB* - contact the principle owner and request copies of the contract and deposit check for the lift, and explanation of delay, and proposed time for completion, by May 3, 2013

*GL* - second – carries

13) Incoming: Retail Building, 649 West Boylston St., Worcester (V13-087)

- TH - EXHIBIT – variance application
- yogurt shop in 944 sq. ft. tenant space
  - upgrading toilet room to single user
  - seek variance to 30.7.1, they are proposing alternate layout, but all clearances are provided

*MB* - grant

*DM* - second – carries

14) Incoming: Farmers Daughter Restaurant, 122 Main St., North Easton (V13-088)

- TH - EXHIBIT – variance application
- former old main street café, being renovated
  - spending over 30%
  - seeking variance for sloped entry at the front of the building (26.6.1)
  - need to order auto-opener

*MB* - grant as designed, on the condition that an automatic door opener is installed, installed on the ramp side at the intersection at the sidewalk; with auto-opener to be installed within 30 days

*DM - Second – carries*

15) Incoming: Grover Elementary School, 9 Maple St., Marblehead (V13-090)

- TH - EXHIBIT – variance application
- new construction
  - seeking relief to 12.4a and 30.6.2
  - pre-k and kindergarten use sinks, seeking lower heights for the use for those kids in 6 classrooms

*MB - grant, as proposed*

*GL - second – carries*

16) Incoming: Sidewalk cross slopes, multiple locations, Taunton (V13-083)

- TH - EXHIBIT – variance application
- the remainder of Taunton Green sidewalk work
  - plans of the green shows compliance
  - blue is 7.5% cross slope at front side of the sidewalk

MB - entire building side is compliant

TH - yes

TH - red indicates 2% as wide as possible, and then create furniture zone in brick

*MB - grant as proposed*

*DM - second – carries*

17) Incoming: Two-Story Building, Mixed Use, Commercial Condos, 33 Highland Ave., Needham (V13-092)

- TH - EXHIBIT – variance application
- seeking variance to remove parking
  - building is not accessible, due to 7-8 steps
  - cost to create yogurt shop
  - additional \$10,000 to create compliant slope

MB - would rather grant the variance for the lack of compliant slopes and require the spot

- what are the slopes

TH - spot grades

- and another plan showing the parking

*MB - continue for more information about the slopes, width, location*

*DM - second - carries*

18) Incoming: Oliviera's Restaurant, 749 Broadway, Everett (V13-091)

- TH
- EXHIBIT – variance application
  - spending over 30%, 4/4/13 letter from architect concedes
  - seeking relief for 20.11.2
  - need to meet with architect
  - need partial application

*MB* - continue for more information, meet with Tom Hopkins

*DM* - second - carries

19) Incoming Discussion: Professional Building, 468 Merrimac St., Methuen (V12-153)

- TH
- follow-up to the previous decision
  - previous required contract for LULA and deposit check
  - decision in August of 2012 about installation of LULA
  - given order to submit shop drawings and install LULA as soon as possible
  - now proposing lift due to cost for framing the roof
  - need to issue stop work order

*DM* - issue stop work order and schedule fine hearing

*GL* - second – carries

*DM* - expedite

*MB* - second - carries

20) Discussion: Brooklyn Boulders, Somerville – Climbing group

- TH
- building facility in Somerville
  - preparing a time variance, seeking temporary CO to start using the facility
  - elevator will be done in July
  - proposing to open in June
  - will send contract for elevator and check, will be sending time variance
  - programs for persons with disabilities

21) Incoming Discussion: Beckett Athenaeum, 3367 Main St., Beckett (V13-073)

- TH
- continued at the last meeting during administrative review (4/8/13)
  - over 30%
  - previous variance application was incomplete
  - sought overall variance for 3.3.2
  - now submitted amendment
  - forwarded to the Board
  - no time to review from submittal, so schedule a hearing

*MB* - schedule a hearing

*DM* - second –carries

22) Discussion: Boylston Street reconstruction, sidewalks at both sides, Boston

- TH
- met with the City previously, proposing reconstruction of both sides of the sidewalks
  - will be seeking variance for materials used, and layout
  - sidewalk is in area where the bombings occurred
  - draft application, but not final submittal
  - met with the Commission and the DPW about this project

**- MB no longer present, Jeffrey Dougan (JD) now present for MOD as designee -**

23) Hearing: Assabet Valley Regional High School, 215 Fitchburg St., Marlborough (V13-006)

- WW
- called to order at 11 a.m.
  - introduce the Board

Robert Vogel, Design Partnership (RV)

Maria Donovan, Design Partnership (MD)

- WW
- RV and MD sworn in
  - AAB1-35 – EXHIBIT 1
  - list of requests on AAB20-22

- MD
- project site is 5 total buildings (A-E)
  - fields have been made accessible with compliant paths of travel
  - accessible parking spaces also addressed, although enough spaces, they were all in one spot
  - so distributed parking spaces
  - spots were restriped with updated signage
  - courtyard entrances were made accessible
  - building is all existing
  - building use is B and E, high school with adult education programs
  - systems replacement
  - only areas that are bigger renovations, gutting science labs
  - adding two additional science labs, all accessible
  - all toilets being upgraded to comply, with the exception of one
  - all shop sinks will be made accessible
  - lockers within corridors and locker rooms will be upgraded
  - drinking fountains will be accessible
  - signage will be upgraded
  - lecture hall, which seats 96 people, previously no accessible seating, will provide four accessible seats, but will need variance



- providing accessible seating in the auditorium and a chair lift to the stage
- almost 900 doors, 83 doors that do not comply
- all door hardware will be upgraded, a lot of doors are being replaced
- a lot of double doors, single door issues where the variances are requested
- seeking four variances, 1 in lecture hall, 1 in auditorium, 1 toilet, and 1 for the 83 doors

- MD
- lecture hall rakes down to the presenting area
  - providing for four accessible wheelchair seating locations, accessible from the corridor to the top of the hall, will be provided with auto-opener
  - stairs down to the front of the hall
  - finished masonry wall, and then if incline lift installed over the stairs, still need lift or ramp up to the stage
  - cost of compliance \$51,000.00
  - seeking variance for no access to the front of the lecture hall
  - all lecture halls are projected and could accommodate a presenter at the rear

- JD
- steps down, stadium style seating

- DM
- fairly small, less than 100 people

*DM - grant as proposed for lack of access to the front of the lecture hall*  
*GL - second – carries*

- JD
- any comment from Commission
  - did not see any

- MD
- next space is the auditorium (AAB8)
  - previously did not have accessible seating
  - main entrance is from the rear
  - can enter stage from the corridor
  - providing chairlift to the stage
  - ramps are not compliant
  - slopes of a little bit more than 5%, between 6 and 7%, ramp is longer than 30 feet without a landing (24.2.2 and 24.4)
  - if the ramps have to be redone, would not match seating, therefore would require entire seating to be redone

- RV
- there are compliant railings proposed along the wall

- JD
- how many wheelchair seating spaces?
- MD
- existing, none
  - proposing 8
  - spots are all shoulder-to-shoulder

*DM - grant both variances for the ramp at the auditorium*

*GL - second – carries*

- MD
- building has 876 existing doors
  - most will be brought into compliance
  - 83 require variances
  - AAB14, coded to meet floor plans
  - yellow dot, do not comply with 26.6.2, due to 12” CMU wall, door is recessed more than 6”, usually noncompliant by 1-3”; \$5-12,000.00 per door, total of 26 doors
  - green square, 26.6.3a, noncompliant pull side clearance at corridors, 10” provided instead of 12”, some have a little bit more
  - some may be 9 1/2”
  - \$5-8,000.00 per door, 8 doors
  - blue is for 26.6.3, for push side clearances, 8 total
  - \$5-8,000.00 per door to replace
  - 10” provided on average
  - red is no pull or push side clearance, due to reduced corridors (3 doors total), \$5-7,000.00
  - Building A, complies
  - Building B, first floor, 5 blue, 2 green
  - Building B, second floor, 15 blue, 2 green
  - Building C, first floor, although a large amount of yellow, all of the doors will be open when the facilities are in use
  - one red, no push and pull clearance
  - service corridor to back of house for cafeteria

KS - go building by building

JD - ready to make a motion

*JD - grant a variance for all noncompliant doors, on the condition that they meet the proposed solutions from application proposal (AAB21-22)*

*GL - second*

*DM - only concern is guidance area*

*MD - exterior wall at guidance area*

*- two doors that do not have the required push pull clearance, doors from corridor*

*- another two entrances into the space, one with a door and one without a door*

*- walk into reception area*

*- carries*

- MD
- administration office toilet, the only toilet that will be kept
  - only used by one person
  - within the office suite of the superintendent, between conference room
  - two accessible toilet rooms, across the corridor

*DM - grant as proposed*

24) Hearing: Beverly Golf and Tennis Club, 130 McKay Street, Beverly (V11-231)

WW - called to order at 1 p.m.  
- introduce the Board

John Dunn, City of Beverly Representative (JDunn)

Imelda Barnhurst, Gienapp Design (IB)

WW - introduce the Board  
- both sworn in  
- EXHIBIT 1 – AAB1-95

IB - three buildings, clubhouse, tennis pro shop, and golf pro shop  
- issue with vertical circulation  
- fixing lift  
- two floors plus basement at club house, first floor, restaurant, second floor, women's locker room and function room  
- tennis and golf pro shop very small and one floor  
- identified 88 issues, will fix 78, seeking variance for 10 items  
- need time variance for some of the 78, will deal with 26 now, 27 in 3 years, and 25 in 5 years  
- numbers are after meeting with north shore and cape ann, so different than application  
- main purpose of the project is to provide access into the project and vertical access within the building  
- took out all of the three year items to one page  
- two bathrooms on the first floor  
- handrail extensions  
- pull stations  
- door leafs  
- door hardware (all door hardware to get into the building, along main route of travel will comply)  
- AAB74-75 is the three year plans  
- seeking to finish the work in three

Dale Gienapp, Gienapp Designs (DG) no present

WW - DG sworn in

DG - current project is really about the ramp and getting people to the function hall  
- 3 year is for everything at the first floor that also get public use  
- 5 year is for the more private use locker rooms  
- 3 years, doors are always staffed

JD - North Shore and Cape Ann (AAB2) letter from Shawn McDuff, they have been very involved

*JD - grant the 3 year time variance as proposed AAB74-75*

*DM - second – carries*

*JD - grant the 5 year time variances as proposed AAB76-77*

*DM - second – carries*

WW - AAB78, the 10 variance requests

JD - independent living center supports all of the requests, but will look at each item individually

IB - toilet room outside of the men's locker room, seeking to leave this bathrooms, and direct people to the men's locker room, which will be made accessible  
- not enough space

JD - time frame for locker room bathroom to be done

IB - 5 years

- any bathrooms in 3 year plan

IB - two toilet rooms at the first floor will be completed in 3 years

DG - those two toilets have been modified, but they are not wheelchair accessible

*DM - grant variance for Item 13 (AAB78), exc. cost without benefit*

*JD - second – carries*

WW - relative to 3 and 5 years, need definitive dates

*JD - May 1, 2016 for the three years and May 1, 2018 for the five years*

*DM - second – carries*

IB - Item 14, door going into the Item13 bathroom, not wide enough and not adequate push and pull side clearances

DM - AAB69 is plan

GL - width of the door?

IB - will put swing-clear hinges, so will be 31"

*JD - grant Item 14, on the condition that swing-clear hinges installed as proposed, exc. cost without benefit*

*DM - second - carries*

IB - Item 15, door that swing out in narrow corridor, only

DG - subject door is only used if someone goes out of the bar and comes back into the locker room

*DM - grant Item 15 as proposed, tech. infeasibility*

*GL - second – carries*

IB - Item 17

WW - submittal of boards, in the future, as Exhibit 2

IB - Item 17, door that leads to door that goes directly outside  
- door swings toward the stairs  
- technically infeasible to make it comply, since surrounded by foundation wall and concrete wall

*DM - grant Item 17, tech. infeasibility*

*GL - second – carries*

WW - Item 27, AAB78

IB - first floor door at foyer with double door to men's bathroom  
- door is 31", putting auto-opener on it, in the 3 year plan, seeking to maintain 31" clear  
- spaces to either side, with furred out walls, make widening the door a problem

DM - creates access to what?

IB - from foyer to men's bathroom

DG - if come from the lift, than would come from central hallway, would have to pass through to get to women's room, but can access men's room without going through that doorway

*JD - grant Item 27, doorway (AAB78), on the condition that the auto opener installed by 5/1/2016*

*DM - second – carries*

IB - women's room at first floor, Item 28

- two issues

- walk under the stair to enter the women's room; only 72 inches of clear headroom, would have to move stair landing to comply, will provide signage

- toilet stall is 58 1/2" wide, instead of the required 60", since surrounded by stair and other walls

JD - 1 1/2" taken from which dimension, 42" from the wide side or 18" from the adjacent wall

*JD - grant Item 28, women's room stall width, as proposed*

*DM - second – carries*

IB - head height issue on vertical clearance to women's room

*DM - grant Item 29, on the condition that very clearly marked for the lack of adequate head clearance, tech. infeasibility*

*JD - second – carries*

WW - item 49

IB - first floor towards the back  
- stair at the back of the building  
- no landing at the stair  
- door is mainly used for deliveries  
- but the public does occasionally use this doorway  
- seeking a variance to have it remain  
- will be doing some work to fix the stair, but will not have a fully compliant landing at the doorway

JD - will be working on the stairs?

IB - part of the 3 year plan, to work on the handrails at the stair

- the stair will comply mostly

- can you make the doorway service/employee use only

JDunn - primarily used for service personnel and deliveries

- hard to control

- can be marked no public access and the golfers could go around the back side

*DM - grant variance to Item 49, on the condition that signage is posted stating “service entrance”*

*JD - second – carries*

WW - Item 63

IB - Item 63, tennis pro shop

- steps at both entrances, propose access within 3 year plan at one of the two entrances

- seeking to have the side door remain, and will make the main doorway accessible via a ramp within the 3 years

DG - only need one exit

JD - do people go in one door and out the other door?

DG - typically go in and out the front door

JDunn - also accessible toilet rooms within the tennis shop

*JD - grant the variance for Item 63, on the condition that exterior signage is posted directing to accessible entrance, done by May 1, 2016*

*DM - second – carries*

WW - AAB79, other issues

IB - they are not noncompliant issues

JD - Board does not have jurisdiction over bar height if tables provided adjacent to the bar, but 2010 access requires lowered bar section

TH - require that compliance photos provided upon completion

DM - *status reports two times a year, starting October 1, 2013 and every 6 months thereafter until compliance*

JD - *second – carries*

**- No more JD, MB now present –**

25) Hearing: DeLuca's Market, 7-17 Charles St., Boston (V11-232)

WW - called to order at 2 p.m.

- introduce the Board

Thomas O'Brien, United Elevator (TO)

Virgil Aiello, Owner – DeLuca's Market (VA)

WW - both sworn in

- EXHIBIT 1 – AAB1-46

-hearing regarding the location of the LULA and the accessible toilet room

VA - had one variance to put it in the middle of the wall, but not feasible, so proposed AAB6 design

- elevator by exit door

- door opens towards the rear wall

- in the interim prior to the hearing, trying to figure out other ways to do this

- trying to make the lift work best for the users and the store

- in order to do this, we would have to (AAB7 and 8) put a ramp into the other level of the cellar, in order to access the larger portion of the cellar

- to access the wine cellar, would have to go through the door at the opposite corner

WW - where is the wine cellar?

VA - where the two lally columns are, with the “up” stairs, is where the wine cellar is located

VA - in order to make the elevator more accessible, thought about moving it towards the front of the building, AAB 7

- AAB6, move the elevator forward to the opening in the wall at the first floor

- this would not work due to the lack of required headroom clearance

- TO came with another possibility

- TO - in the middle of the storage with the stairway  
- from the beginning did talk elevator, but would not work; asked about using an enclosed wheelchair lift in the center of the store  
- brought cut sheet for general cut sheet
- TH - shop drawing of equipment?  
TO – yes
- TH - no lift drawn in the plan?  
TO - no, just mentioned last Thursday  
- it will fit dimensionally  
- was told by VA that never aware of vertical wheelchair lift
- MB - changes in level at the center of the store  
VA - drawings don't change, if the lift put in at the center stairway then plans don't change  
- wants to know if this would be feasible and then can do drawings  
- stairway and lift will be directly adjacent to each other  
- have been given approval for tables and chairs at the lower level, but not yet finalized  
- wouldn't be direct access to the wine cellar  
- would have access to the main cellar and the toilet room at the basement level  
- drawings don't take away limitations about ceiling heights and changes in level that are existing
- MB - what about ramp at the back of the store?  
- would that create access to the entire lower level  
VA - not 100%, but could access up to the front of the store, AAB7, up to the two stairs before the main wine cellar
- MB - the front of the wine cellar will not be accessible? From the street entrance?  
VA - never formally addressed, could do portable ramp
- MB - all is speculation  
- understand shop drawings, but need specifics for this business and location  
- need to know what areas will and will not be accessible  
- understand need further clearance from neighborhood association  
- can't make any motions on speculation
- TH - already issued decision on installation of LULA and accessible toilet room at the first floor  
- purpose of the hearing, was for change of location of the LULA and the toilet room location  
- computer at the lobby of the wine store  
- computer is not there
- VA - it is there, and got temporary certificate of occupancy



- was there to get extension of certificate of temporary occupancy permit to expand to upstairs to start selling some groceries
- Gary Moccia sent Dave Johnson, Building Inspector to the store to see the computer
- temporary CO given
- have drawings stamped by an architect that shows the cellar as it is
- the drawing doesn't change anything that was previously approved, other than moving the LULA to the corner

WW - what about moving it to the stairway?

VA - that was the proposal that they came up with last Thursday

TH - temporary CO was for the lower level only, not to use the upper level

WW - opening of the store was conditional on installing the elevator

VA - yes, to have it done by May 1, 2013, conditioned by Boston  
 - asked to change the plan in February

WW - will the elevator be installed by May 1<sup>st</sup>?

VA - no

VA - asked to have the location of the elevator changed, until talked to TO last week

- the original moving of the LULA was sent to the Board

WW - scheduled this hearing to talk about the moving of the LULA, which was allowed by the Board

- temporary CO is for what?

VA - realized that the original approval of the location was not feasible, so after proposing moving the LULA, hearing was scheduled

- know that we have to have the elevator installed

- we knew that hearing not until the 22<sup>nd</sup> of April

- so either had to put it in and then remove it, or wait to put it in for the approval of the hearing

- wanted to have the hearing first before proceeding

- in the meantime, have been trying to get temporary CO for the wine cellar at the basement and first floor grocery store for sandwiches

- asking temporary CO for part of the first floor of the store, since still construction at the back of the store

- no other part of the store is open, but seeking further temporary occupancy

- have been given temporary CO by Boston ISD, but need approval from Health Department, the ISD temporary CO will expire May 1<sup>st</sup>

WW - been a building for 17 years

- supposed to have an architect in charge of the project, due to the size of the project

- initial plan for LULA did not work, although designed by professional, then suggested moving the location of the LULA; and now TO involved and adding more suggestions

- how has ISD let you go on this long in disorganized fashion
- controlled construction, requires architect to supervise the construction to make sure all of these issues are addressed
  - not this Board's fault that the store is not open
  - we don't want to put anyone out of business or delay anyone's opening of business
  - don't know what we can do, without specific plans submitted by an architect that has control over this project
    - to make sure that the proposed vertical access will comply with the requirements of 521 CMR
    - there are multiple level changes in the basement
    - these are additional items that were not part of the scheduled hearing; a completely separate proposal than the previous proposal
      - so much has changed in the past two months
      - until the Board feels comfortable that someone is in charge of the project to meet all the applicable requirements for all governing bodies related to this project
      - there are no stamped architectural plans from an architect; required to do so

TH    - have submitted plans for LULA that were approved

- was at the wine cellar Thursday night and there was no computer supplied
- the hearing was prepared to hear the argument about moving the LULA to another location
- AAB2, email sent to VA to state that the information that is additional shall be submitted to the Board 10 days prior

VA    - picture of the computer?

DM    - picture does not mean it's available

VA    - the computer is located downstairs under the entrance landing, so if anyone needs to use it, it is handed up to them, so that the computer is not stolen

DM    - unsure of where the LULA is proposed to be located

- propose to maintain original decision

GL    - copy of contract for the LULA

TO    - don't have it with me

VA    - have a signed contract with United Elevator

TO    - yes, for a 51" x 51" LULA

MB    - TO came out to the store last week?

- why wait until last week, when this needed to be in May 1<sup>st</sup>

TO    - have been out to the store several times before last week

- now seeking to modify the location of the LULA, change order for front only LULA, instead of original order for front and side entrance

MB    - original order was for a LULA in the center of the store

- then additional proposal for rear location of LULA

- why is the LULA proposed to be moved again?

TO - unsure of why moving up in the location

- swing door at moved up corner would not work; as far as I knew, the second proposal of the LULA at the back corner would work

MB - feels like it was all happening late in the game

- we have very complex cases that come before us

- usually get notice well in advance of delays

- May 1<sup>st</sup> deadline to be installed, and at this hearing on April 22<sup>nd</sup> still did not ask for additional time

VA - did notify the Board thru email to Mr. Hopkins about the change of locations

- had the notice that it wouldn't work

- drawing is dated January 23, 2013

- not changing, just a possible alternative

- been waiting since January to get permission to put the lift (LULA) in the proposed rear location

- were ready to do back in January

DM - plans dated back to 2010

- nothing has happened since then

VA - trying to do the right thing, supplied written documentation to propose change in location to the rear

- just need approval for the change of location that were last submitted with the architectural drawings that were previously submitted

WW - any comments from the Board, regarding the location of the LULA that was changed to the back location

MB - so now proposing change of location to the rear of the store

VA - cannot put an elevator in, got a variance that an elevator not required

MB - but then found out that expanded lower level

- not true, came forward and proposed the LULA because we wanted to do it

- proposed along the back wall, was going to be right in the middle of the meat and deli cases

(TAPE)

(pause for moment of silence for victims of Boston Marathon Bombings at 2:50 p.m.)

TH - letter from VA received on October 5, 2012

- request for 51" by 51"

- original location of LULA was at the first floor with unisex toilet room at the first floor, with some minor needs for dimensional relief

- prepared by United Elevator, shop drawings

- TO - when reviewed for initial 51" by 51" LULA, there was no floor
- TH - cellar was expanded and floors installed brand new  
- have told VA multiple times that need to amend variance for any remaining changes in level
- MB - hired an architect to design this plan, that did not work  
VA - can't really blame architect, since no one knows best what would work for the store, other than the store owner  
- should have worked with the architect in the design of this
- WW - initial request for 51" by 51" needed variance for the LULA dimensions  
TH - yes, because LULA required to be 36" by 60"  
- so location change of LULA meets requirement  
TO - yes
- TH - yes, and Board approval needed because of standing order  
- initial variance was granted for LULA to be 51" x 51" and toilet room at the first floor  
- now proposing different location for both LULA and toilet room at the basement level
- WW - what about if lift placed next to the stair, will the lift comply in full?  
TO - only dimension that may change, would be dependent on enclosure, glass or stud wall; would just need a slightly larger shaft
- WW - all that is needed is that the vertical access complies  
- 51" by 51" dimensions are not an option
- TO - part of the problem is that I said that it would be big enough to hold a wheelchair lift, and proposed this  
- great idea, until coming to a hearing with no additional information
- MB - central location preferred  
- but if the Board granted the use of an enclosed vertical wheelchair lift at this location  
- how long would it take for the lift to be done  
TO - five weeks to manufacture, and another week to put it in  
- so say 8 weeks, to have vertical access provided
- TH - what about LULA at that location  
TO - couldn't fit because of existing opening, LULA is 69" x 79" as opposed to 4 1/2 feet by 5 feet  
- LULA is a better vertical access option  
TO - would prefer to sell the LULA  
- but the location of an enclosed wheelchair lift in the center of the building
- DM - need a plan as proposed; don't want to move forward without that, due to the history of this case  
- want to see stamped plan of proposed  
TO - smoke and mirrors was my fault for proposing the vertical wheelchair lift

- two options are a LULA at the rear corner; or a central located enclosed vertical wheelchair

TO - architects do not design properly for food industry, and grocery stores

*DM - take it under advisement based on the time*

*GL - second – carries*

VA - would they be allowed additional time to keep the store open with the temporary CO past May 1<sup>st</sup>  
- would like to get this built and done

VA - letter says that computer is under the stair landing so it won't be stolen

### **- NO MORE DM -**

26) Hearing: Church Door of Hope, 590 Primrose St., Haverhill (V12-033)

MT - called to order at 3:10 p.m.  
- introduce the Board

Maria Arce, Member of Church (MA)  
Bienvenido Sequi, Pastor of Church (BS)

MT - both sworn in  
- EXHIBIT 1, AAB1-48

WW - seeking to use "chair lift", with no platform

MA - when we went to get information for the lift; \$15-25,000.00 to install lift  
- a member of the church donated the chair lift, which goes along the stairs

WW - any pictures?  
MA - no

TH - haven't installed it yet?  
MA - no said that they could not

TH - unsure if it is an egress stair  
- elevator Board will not approve

MA - currently don't have any members in wheelchairs, but can put the lift in AAB9, picture #3

MB - there is a person that would like to donate an incline platform wheelchair lift  
- just got an email last week about donated

- vertical platform lift

WW - access to the second floor?

MA - three points of access to the second level  
- two points of access to the third level

WW - second floor is place of worship?

MA - yes

- what's on the first floor

MA - kitchen and kids room

WW - can someone in a wheelchair get into the first floor?

MA - no

WW - trigger for work?

TH - proposing to put the lift in

- not required, but wanted to install the lift

TH - AAB14 and 15

- no other work being done on the building

- work performed has to comply, since in a public area

TH - trying to make it accessible for a certain person?

MA - no, because there was a fire, the state and/or the city required accessible entrance

- told him that they would try to make it accessible

MB - appreciate trying to create access, but the chair lift is not allowed by the Board in a public building

- sometimes some buildings need to just stay the way they are

- putting in the chairlift, cannot be approved by the Board

TH - down the road, may need to do additional work to create access

*MB - no jurisdiction on the condition that no lift is installed at this time*

*GL - second – carries*

27) Hearing Discussion: Motion to reopen Deluca's Market, 7-17 Charles St., Boston (V11-232)

*MB - reopen*

*GL - second – carries*

*MB - need to have this discussed with the full Board, so continue, until review by the full Board*

*GL - second – carries*

*MB - would like to have Tom Hopkins to get in touch with Gary Moccia from the City of Boston ISD, to confirm that a temporary CO has not been issued for the first floor store; and if it has been issued, it shall be immediately rescinded; can't open the store until the issue of vertical access is resolved due to spending over 30%*

*GL - second – carries*

*MB - at the next meeting, during administrative review, based on the response from ISD as well*

*MB - notify Boston ISD, that the temporary CO for the wine cellar shall not be extended until there is proof of a permanently installed computer at the entrance level for the wine cellar, that is readily available, that does not require asking for assistance*

*GL - second – carries*

WW - came with yet another option for vertical access without any plans

MB - needs to work with an architect regarding use of design and vertical access

KS - any comments?

*MB - accept the minutes and decisions of 3/25/13*

*RG - second - all in favor pending an additional vote, and with CS abstaining*

28) Incoming Discussion: New Housing, Arlington 360, 4105 Symmes Circle, Arlington (V13-074)

- TH - late submittal from the petitioners  
- continued from April 8<sup>th</sup>  
- sent Notice of Action on the 11<sup>th</sup>, stating what was needed  
- came in on Thursday night and didn't have enough time to review it  
- will bring it back at next meeting

29) Incoming: Shalimar Terrace Condo, 118 Elm St., Millbury (V13-089)

- TH - EXHIBIT – variance application  
- owns a barber shop in current condo complex, bought another vacant space  
- building inspector stated that change of use under building code, so ordered variance  
- but reviewed permits and no jurisdiction

*MB - based on the facts that have been presented to the Board in regards to this property at this time, it appears that 521 CMR not triggered at this time*

*GL - second – carries*

30) Discussion: Minutes and Decisions from April 8, 2013

*MB* - *accept all*  
*GL* - *second - carries*

- End of Meeting -